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ABSTRACT

One of the working papers in the final report of the Arizona Board of Regents' (ABOR) Task Force on Excellence, Efficiency and Competitiveness, this document looks at ABOR and at the governance and decision making processes of Arizona's three public universities. ABOR is a body corporate charged with the governance of the three universities, which have no independent existence but rather are extensions of the Board. Subjects considered are as follows: the constitutional authority and responsibility of the Board; the statutory authority and responsibility of the Board; delegation of authority by the Board; the role of Board committees and councils; executive staff councils; and internal decision making processes at the university level. Specific information (e.g., presidents, vice presidents, vice provost, legal council to the president, associate to the president, assistant to the president, deans, and the faculty senate) is provided for the University of Arizona, Arizona State University, Northern Arizona, the Arizona Students Association, and the Associated Students of the University of Arizona (the official student governance body). Eleven selected officers oversee the Arizona Students Association, an active student lobbying group representing each of the three state universities before ABOR and the state legislature. (SM)

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THE GOVERNANCE AND DECISION MAKING PROCESSES OF THE ARIZONA BOARD OF REGENTS AND UNIVERSITIES

JACQUELINE SCHNEIDER AND EDWARD JOHNSON

INTRODUCTION

The Arizona Board of Regents is a body corporate charged with the governance of the three universities. The universities have no independent existence but rather are extensions of the Board. As such they are governed through implementation of policies and regulations adopted by the Board. With the approval of the Board, each university adopts internal rules and procedures that are consistent with its particular needs.

CONSTITUTIONAL AUTHORITY AND RESPONSIBILITY OF THE BOARD

Each of the fifty states have exercised their residual powers under the Constitution of the United States to establish public institutions of higher education. Twenty-seven states make explicit reference to higher education in their constitutions and the remainder have legislatively provided for such a system.

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Arizona is one of only nine states with a constitutional provision for higher education which provides recognition of the state university. The other states are Michigan, Minnesota, California, Colorado, Georgia, Idaho, Oklahoma, and Nevada. A constitutionally created university system such as Arizona's is insulated to a substantially larger degree than statutorily created systems from both legislative and executive branch interference with its internal affairs. The system exists as an entity of state government with powers that clearly transcend those of other departments and agencies. The State Constitution of 1911 creates the Board of Regents to provide for the governance of the university system and directs the legislature to enact laws to provide for the establishment and maintenance of a university. It further provides that the general conduct and supervision of the public school system will be vested in such local governing boards as the law provides. This language has been construed by Arizona courts to vest control of the universities solely in the Board.

The state constitution also requires the Arizona legislature to appropriate such tax money "as shall ensure the proper maintenance of all state institutions," and

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to "make such special appropriations as shall provide for their development and improvement."

STATUTORY AUTHORITY AND RESPONSIBILITY OF THE BOARD

Title 15 of the Arizona Revised Statutes establishes the statutory framework for the governing powers and responsibilities of the Board. It provides authority for the Board to maintain the state universities and vests it with the general corporate powers to contract; sue and be sued; purchase, receive and sell real and personal property; and hold leases of real and personal property and conduct such other business as may be consistent with its role as the governing body of the university system.

The statutes endow the Board with general administrative authority to enact ordinances for the governance of the institutions under its jurisdiction; to appoint, employ, and make salary recommendations of all officers and employees, and their removal; the fixing of tuition and fees; the establishment of curricula and courses; the awarding of degrees and diplomas; the prescription of admission qualifications for veterans; the adoption of energy conservation standards; the employment of attorneys; and the authority to settle litigation not covered by self-insurance.

Personnel-related authority permits the development of a comprehensive merit pay plan and the establishment of personnel policies. Authority relating to academic affairs includes the supervision of teacher training schools and the approval of courses of study and academic degrees.

The Board is empowered to establish alternative retirement programs; to manage the Arizona State Museum; to adopt rules prescribing procurement policies and procedures; and to enter into agreements with other governmental agencies. Financial authority is granted to maintain a "Universities' Fund;" to expend income of land funds; to expend money for the use and benefit of the institutions; to accept grants of money; and to issue bonds and manage money and property, including, specifically, research parks.

Additional state statutes authorize the Board to exercise authority related to lease the University Hospital; to operate a WICHE program; to adopt guidelines regarding tuition classification; and to exercise the power of eminent domain. The University of Arizona is designated as the land grant institution for the state and as such operates the Arizona Agricultural Experiment Station and the Arizona Cooperative Extension Service, both of which receive federal funding through the U.S. Department of Agriculture.

Arizona case law has further interpreted the specific powers of the Board. The Arizona Supreme Court has held that the Board has powers which are expressly delegated to it as well as powers which may be reasonably implied for the purpose of effectuating its mission. In a case dealing with the expenditure of funds, the court determined that the Board has been given complete control of the management of its offices and the universities, including expenditure of funds, with the caveat that the funds must be used for the purposes for which they are appropriated.

DELEGATION OF AUTHORITY BY THE BOARD

The Arizona legislature has given no authority directly to university administrative officers and has provided minimal guidance on the authority to delegate. In Arizona, state agencies and officers have no common law or inherent powers and thus, the authority of university administrators is derived from such powers as the Arizona Board of Regents delegates to them.

The role of the Board of Regents in the day-to-day management of the officers of the three universities must, of necessity, be limited to broad issues of policy determination, assignment of role, scope and function of each university, establishment of rules and regulations governing financial and personnel matters, appointment and evaluation of its chief officers and general review of the performance of the institutions on a periodic basis. Some aspects of institutional management have been specifically assigned to the Board itself by legislative action and hence may be delegated to either the executive director or the university presidents.

The power of the Arizona Board of Regents is viewed as a public trust conferred upon the Board by Constitution and statute for the benefit of the institutions over which it presides.The Board has discretionary as well as ministerial powers. The Board may only delegate a discretionary power when it establishes criteria that are suficient to transmute the discretionary function into a ministerial function. Any circumstance in which a board could choose freely between alternative courses of action given a specific set of facts is an exercise of the board's discretionary authority. Powers of the Board which require the exercise of discretion of judgment are exemplified by determination of contract terms, hiring and firing decisions, and the establishment of systemwide policies on a broad array of subjects as reflected in the Board's policy manual. Ministerial functions are generally defined as acts which require little or no discretion. Examples of "ministerial" functions include signing contracts or leases with specified terms or ascertaining the qualifications of applicants for employment. The Board may also delegate the function of determining facts, circumstances or contingencies upon which the exercise of its discretion depends. However, the Board itself makes the final decision where more than one course of action is available under the facts established.

THE ROLE OF BOARD COMMITTEES AND COUNCILS

Pursuant to its bylaws the Board has established three standing committees composed of members of the Board appointed by the President. The President and student regent serve as ex officio members of all standing committees.

The Resource Committee is charged with responsibilities related to operating, capital and local fund budgets; general finance and accounting; internal and external auditing; and registration fees and tuition. The committee also reviews and makes recommendations concerning organizations related to the Board, such as foundations and research parks.

The Committee is charged with responsibilities relating to capital budgeting review; capital development

policies; and sales, acquisitions and leases of real property.

Among the additional responsibilities of Committee are the development and implementation of Board policies including a comprehensive Human Resources Plan, and responsibilities related to compensation and benefits issues, oversight of the Board and universities' Affirmative Action Plans and monitoring periodic institutional reviews of personnel management systems.

The Program Committtee of the Board has responsibilities related to academic degree programs, academic organizational units, and academic personnel policies in conjunction with the Resources Committee. The committee also oversees the implementation of Board policies related to student affairs and articulation.

The Program Committee is also charged with responsibilities relating to governmental relations, coordination of legislative relations, and general public affairs issues.

The Strategic Planning Committee is charged with the development of and the recommendation to the Board of a systemwide strategic plan including demographic and enrollment projections, University System and individual university missions, establishment of priorities, strategies for achieving excellence, and the development of goals for the system and each university.

EXECUTIVE STAFF COUNCILS

Over the years the Executive Directors of the Board have formed five Executive Staff Councils to assist the Board of Regents Central Staff in the review and analysis of university systems issues and the preparation of action items for Board committees and Board consideration.

The Council of Presidents, which includes the three university presidents and the executive director of the Board of Regents, addresses a full range of issues relating to the upcoming Board meetings and issues that are of mutual interest to the individual universities.

The Academic Affairs Council, which includes the academic vice presidents of the universities and appropriate Board staff, reviews all matters related to academic degree programs, academic organizational units, academic personnel policies, and general academic policies.

The Business Affairs Council includes the administrative and financial vice presidents of the universities and appropriate Board staff. It reviews all matters related to budgets, finance, business operations, capital construction, and classified personnel.

The Student Affairs Council includes the student affairs vice presidents of the universities and appropriate Board staff. It reviews issues such as student financial aid, the Code of Conduct, student health insurance, and other issues regarding student services.

The Legal Affairs Council consists of the universities' counsel and the Board counsel. It reviews all legal issues confronted by the system and proposed Board and institutional policies that have legal implications.

Councils usually meet one or two times per month and are chaired by a member of the central staff.

INTERNAL DECISION MAKING PROCESSES AT THE UNIVERSITY LEVEL

Universities are inherently complex organizations. Like other organizations they have goals, hierarchical systems and structures, officials who carry out specified duties, decision making processes that establish institutional policies, and employees who conduct the affairs of the university in instruction, research and service and handle routine support functions. The also exhibit certain distinguishing characteristics that affect their decision making processes, including the concept of collegiality, which has evolved from the historical conception of universities as "communities of scholars." This historical decision making model reflects the philosophy that decision making should not be like the hierarchical process in an bureaucracy. Instead there should be full participation of the academic community, especially the faculty. It also emphasizes the professional faculty member's ability to make his or her own decisions and his or her need for freedom from organizational restraint. Thus, the decision making process is highly participatory and widely consultative. Three components of the formal governance structure at each university--institutional, faculty and student--ensure that each of these major groups of the university community are consulted in decision making processes.

The president of each university is appointed by and serves at the pleasure of the Board. Each represents his or her institution in matters coming before the Board. By statute, the Board submits individual budgets for each of the universities and for the Board and its staff. The legislature appropriates funds to each of these entities through line items.

UNIVERSITY OF ARIZONA

The president of the university has four vice presidents who report directly to him: senior vice president for academic affairs and provost, the senior vice president for administration and finance; the vice president for university relations and development; and the vice president for planning and budgeting. There are also two additional vice presidents: the vice president for research (who is also dean of the graduate college) and the vice president for student affairs both of whom report to the provost. These six individuals along with the vice provost, vice provost for medical affairs, the legal counsel to the president, the associate to the president and the assistant to the president comprise the President's Council, the principal advisory body to the president. Appropriate sub-groups deal with the specific recommendations regarding human, fiscal and physical resources.

All deans report to the provost and are members of the Deans' Council. Ordinarily recommendations relating to academic matters move from departments, up to deans, to the provost, to the President's Council, and the president, although there are frequent dialogues among the different levels. Policy directions as well as specific decisions are often issued from the president's office down, after appropriate consultation.

The Faculty Senate is the official governing body of the faculty and serves in an advisory role to the president on academic matters. Its membership consists of forty-four elected faculty members and all vice presidents and

deans who serve among the twenty-two ex officio voting members. There are also nine student members who are appointed by Associated Students of the University of Arizona. The president is voting member of the Faculty Senate. The elected members from the faculty serve two year terms and are elected either as representatives of the individuals colleges or at-large. Standing committees of the Senate include Academic Personnel Policy, Budget Policy, Instruction and Curriculum Policy, Research Policy and Student Affairs Policy. There are also several elected faculty committees which carry out specific responsibilities, including the Committee on Academic Freedom and Tenure, Committee on Committees, Committee on Conciliation, Committee on Elections and Committee on Faculty Membership.

The Associated Students of the University of Arizona is the official student governance body. Eight senators are elected at large each March to the student senate which acts on all monetary requests from nearly 300 registered clubs and organizations. The senators also advise the president and vice presidents on matters of policy, programs and general student concern.

ARIZONA STATE UNIVERSITY

The president of the university has six vice presidents who report directly to him: the vice president for academic affairs and provost, the vice president for student affairs, the vice president for business affairs, the vice president for university relations, the vice president for research, and the vice president and provost of the ASU West campus. These six individ-uals along with the four assistants to the president, the university general counsel and the director of intercollegiate athletics comprise the President's Council, the principal advisory body to the president.

All deans report to the vice president for academic affairs and are members of the Deans' Council. Ordinarily recommendations move from departments up to deans to the vice president for academic affairs and the president. The president relies heavily upon advice solicited from formal groups, from ad hoc study committees and from informal consultants within the university. Formal advisory groups include the Vice Presidents Council, the Budget Council, the Faculty Senate, Associated Students of ASU, and the President's Consultative Committee. Other groups that may be called upon through the appropriate vice presidents include, among others, the Dean's Council, the Graduate Council and the Staff Personnel Committee. When broad issues emerge on the campus, ad hoc study groups are frequently convened to review the issues and to make recommendations.

The Faculty Senate is the official governing body of the university faculty and advises the president on academic matters. Its membership consists of one hundred five elected faculty members. Senate officers, the president of the Associated Students of ASU, the vice president for academic affairs and the president serve as ex officio voting members. The elected members from the faculty serve three year terms and are elected as representatives of the individual colleges. There are several standing committees of the Faculty Senate including Academic Affairs, Academic Freedom and Tenure, Committee on Committees, Executive Committee, Faculty Personnel Committee, Financial Affairs and Physical

Plant, Student Policy and University Services.

The Associated Students at Arizona State University is the official student governance body. Twenty senators are elected yearly. The student government has a number of vice presidents in areas such as activities and campus affairs.

NORTHERN ARIZONA UNIVERSITY

The president of the university has three vice presidents who report directly to him: the senior vice president for administration and finance, the vice president for academic affairs and the vice president for student affairs. These three individuals along with the assistant to the president, the president's coordinator for university relations and development, and the assistant to the president for affirmative action constitute the President's Executive Council, the primary decision advisory group to the president.

All deans report to the academic vice president and are members of the university faculty which advises the president on academic matters. Its membership consists of thirty-five elected faculty members. The president, the vice president for academic affairs, a library representative, and a representative from the Associated Students of NAU are ex officio members of the body. Members of the faculty serve three year terms and are elected as representatives of individual colleges. There are eight standing committees of the Faculty Senate: Executive, Nominations, Elections, Academic Affairs, Professionalism, Student Policy, Long Range Planning and Bylaws.

The Associated Students of Northern Arizona University is the official student governance body. Nine officers are elected yearly including a president, vice president for administration and finance, vice president for student services, three council persons, liaison council person, a representative from the Association of Woman Students, and a representative from the Association of University Residence Halls. ASNAU leadership also participates actively in university planning and decision making through regular contact with university officials and representation on the university Faculty Senate and other policy advisory bodies.

ARIZONA STUDENTS ASSOCIATION

Eleven selected officers oversee the Arizona Students Association, an active student lobbying group representing each of the three state universities before the Arizona Board of Regents and the state legislature.